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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92052146
Party	Plaintiff Corporacion Habanos, S.A. and Empresa Cubana del Tabaco, d.b.a. Cubatabaco
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Submission	Opposition/Response to Motion
Filer's Name	David B. Goldstein
Filer's e-mail	dgoldstein@rbskl.com
Signature	/David B. Goldstein/
Date	04/24/2012
Attachments	PDR.Response to Ext Request.pdf ( 4 pages )(248266 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

CORPORACION HABANOS, S.A., and EMPRESA  
CUBANA DEL TABACO, d.b.a. CUBATABACO,

Petitioners,

v.

RODRIGUEZ, JUAN E.,

Respondent.

Cancellation No. 92052146

**PETITIONERS' RESPONSE TO RESPONDENT'S MOTION FOR EXTENSION  
OF TIME**

Petitioners Corporacion Habanos, S.A. and Empresa Cubana Del Tabaco, d.b.a. Cubatabaco ("Petitioners") hereby respond to the motion of Respondent Juan E. Rodriguez ("Respondent") for an extension of time, specifically to address Respondent's misrepresentation to the Board that "Counsel for Petitioners denied consent" and "does not agree to the" requested extension of time. Respondent's Motion at 2 n.1, 4. Petitioners further state as follows:

1. After repeated fruitless efforts even to get a response from Respondent's counsel to address discovery disputes, Petitioners filed and served by mail a Motion to Compel ("Motion") on April 5, 2012, making Respondent's response due by April 25.

2. On the morning of April 23, two days before Respondent's response was due, Respondent's counsel requested by email a two to three week extension to respond to the Motion, based on Mr. Rodriguez's illness. Petitioners' undersigned counsel responded that morning, requesting that Respondent advise when it will produce the documents and things that were due seven weeks ago, on March 6; noting that, according to counsel's representations in Respondent's Interrogatory Response, by March 6 Abe Flores had already provided or collected

the documents and things responsive to Petitioners' document requests, and, therefore, there was no reason not to produce those documents and things immediately; and further noting that counsel had represented in the Interrogatory Response that "Mr. Flores has ultimate responsibility for all things related to the PINAR DEL RIO brand." (A true copy of the email exchange is annexed hereto).

3. Given that Respondent's response to the Motion was not due for another two days, Petitioners fully expected a response to the email queries as to the basis for the extension request and failure to produce documents. Respondent's counsel, however, once again refused even to address the discovery issues; instead of responding, he unnecessarily rushed to file a motion to extend time on April 23, misrepresenting that Petitioners "denied consent" and "does not agree" to the extension request. Petitioners' counsel learned of the extension motion and misrepresentation when, in the absence of the expected email response, he checked the docket this afternoon, April 24.

4. Given the nature of the issues raised in the Motion, and Respondent's failure to explain why it cannot respond to the Motion in consultation with Mr. Flores, who, according to Respondent, "has ultimate responsibility for all things related to the PINAR DEL RIO brand," Petitioners question the claimed need for a two week extension. Nevertheless, Petitioners do not object to the requested extension. However, during the pendency of the Motion to Compel, there continues to remain no legitimate, good faith basis for Respondent's continued refusal to produce responsive documents, including those admittedly collected almost two months ago; to provide proper interrogatory responses; or even to respond to Petitioners' repeated requests to address the discovery issues.

Dated: New York, New York  
April 24, 2012

Respectfully submitted,

RABINOWITZ, BOUDIN, STANDARD,  
KRINSKY & LIEBERMAN, P.C.

By: /David B. Goldstein/  
DAVID B. GOLDSTEIN  
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*Attorneys for Petitioners Corporacion Habanos,  
S.A. and Empresa Cubana del Tabaco*

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing PETITIONERS' RESPONSE TO RESPONDENT'S MOTION FOR EXTENSION OF TIME was served on Respondent by mailing via U.S. first-class mail, postage prepaid, said copy on April 24, 2012, to:

Frank Herrera  
H New Media  
P.O. Box 273778  
Boca Raton, FL 33427  
*Address of Record for Attorney for Respondent Juan E. Rodriguez*

Frank Herrera  
H New Media Law  
1405 N. Congress Ave.  
Suite 10  
Delray Beach, Florida 33445  
*Address used by Attorney for Respondent in motion for extension of time*

/s/  
David B. Goldstein

## David Goldstein

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**From:** David Goldstein  
**Sent:** Monday, April 23, 2012 11:18 AM  
**To:** 'Frank Herrera'  
**Cc:** Daniel Reich  
**Subject:** RE: Corporacion Habanos v. Juan Rodriguez

Frank:

I am sorry to hear about Mr. Rodriguez.

Please let me know when you will produce the responsive documents and things, which were due by March 6. I note that, according to the representations in your Interrogatory Response, as of March 6, Abe Flores had provided or collected the documents and things responsive to the document requests. Therefore, there is no reason for you not to produce those documents and things immediately. I further note that you represented in your Interrogatory Response that "Mr. Flores has ultimate responsibility for all things related to the PINAR DEL RIO brand."

David B. Goldstein  
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New York, NY 10006-3791  
212-254-1111 x103  
(F)212-674-4614  
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-----Original Message-----

**From:** Frank Herrera [<mailto:fherrera@hnewmedia.com>]  
**Sent:** Monday, April 23, 2012 9:53 AM  
**To:** David Goldstein  
**Cc:** Frank Herrera  
**Subject:** Corporacion Habanos v. Juan Rodriguez

David:

My client Juan Rodriguez has suffered a stroke and has been hospitalized for over a week now. I am seeking 2-3 week extension of time to respond to your motion to compel.

Frank Herrera  
H New Media Law  
1405 N. Congress Avenue  
Suite 10  
Delray Beach, Florida 33445  
305.965.5148